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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,314	09/05/2003	Marc. L. Vitantonio	26568/04006	8215

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EXAMINER

BALSIS, SHAY L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/656,314

Applicant(s)

VITANTONIO ET AL.

Examiner

Shay L. Balsis

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.  
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20-49 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 27-30 and 49 is/are allowed.  
6) ☒ Claim(s) 20, 21 and 31-48 is/are rejected.  
7) ☒ Claim(s) 22-26 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

Claims 23 and 25 are objected to because of the following informalities:

Claim 23 recites the limitation "one of their corresponding edges" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim. What edges is the applicant trying to claim?

Claim 25 recites the limitation "the edges of each of said first and second head sections" in line 3. There is insufficient antecedent basis for this limitation in the claim. What edges is the applicant trying to claim?

Claim 25 recites the limitation "their edges" in line 4. There is insufficient antecedent basis for this limitation in the claim. What edges is the applicant trying to claim?

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 20-21, 31-33, 36-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Federico et al. (USPN 5630243).

Federico teaches a cleaning implement comprising a handle (1), a head (7, 8) wherein the head comprises first and second complimentary head sections that are slidable and pivotable with respect to each other. The first and second head section slide and pivot about cam hinge (9). The first and second head sections are movable one relative to the other between a loading, use and unloading position. Figure 1A shows the use position with the solid lines and the loading and unloading position with the dashed lines. The cleaning tool comprises a cleaning swab (figure 6B) that is removably attached to the head. The swab is substantially trapezoidal shaped as shown in figure 1B and comprises four edges wherein three edges are closed and open is open to form a pocket. The cleaning swab comprises a surfactant such as cleaner, disinfectant and/or deodorant materials (abstract). The cleaning swab can be

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attached to the cleaning head when the tool is in the loading position and can be removed from the head when the tool is in the unloading position. The swab can be displaced from the head without causing rupture or destruction of the cleaning pad. The cleaning tool further comprises an actuator (2, 4). The actuator is located in the handle is in communication with one of the head sections. The actuator comprises a control rod (4), which extends from the handle to one of the head sections. The control rod connects at the handle to a control button (2) and connects the head to one of the cleaning heads. The control button is moved between a loading, use and unloading position. The actuator comprises a cam and a cam follower (figure 1A). The first and second head sections are substantially symmetrical (figure 2).

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Federico et al. (USPN 5630243).

Federico teaches all the essential elements of the claimed invention however fails to teach that the swab is made from a blend of 75% cotton by weight and 25% rayon by weight. It would have been obvious to one of ordinary skill in the art the time the invention was made to use a blend of 75% cotton by weight and 25% rayon by weight, since it has been held within the general skill of a worker in the art to select a known material on the basis of suitability for the intended use as a matter of obvious engineering choice. *In re Leshin*, 125 USPQ 416.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Federico et al. (USPN 5630243) in view of Hansen et al. (USPN 5672418).

Federico teach all the essential elements of the claimed invention however fails to teach a binder of polyvinyl acetate applied to the pad member. Hansen teaches applying a polyvinyl acetate binder to fibers. It would have been obvious to apply a polyvinyl acetate binder to the pad member of Federico to assist in adhering the fibers in the pad member together and also to help adhere a surfactant, scent or dye to the pad member.

Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Federico et al. (USPN 5630243) in view of Beck et al. (USPN 2816311).

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Federico teaches all the essential elements of the claimed invention however fails to teach that the head section comprises one or more protrusions, teeth or surface texturing. Beck teaches a toilet cleaner comprising a head with a first and second section wherein the head sections have protrusions (34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Federico so that the head section have protrusions, as taught by Beck so that the swab will stay in place on the head sections without too much movement (col. 4, lines 43-54).

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Federico et al. (USPN 5630243) in view of Atkinson et al. (USPN 3225375).

Federico teaches all the essential elements of the claimed invention however fails to teach that the head section comprises one or more holes. Atkinson teaches a toilet cleaner comprising a head with a first and second section with holes (132). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Federico so that the head sections have holes, as taught by Atkinson so that when the cleaning head gets wet, the water retained in the swab and in between the head sections will drain from the cleaning tool (col. 7, lines 42).

Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Federico (USPN 5630243) in view of Sayles et al. (USPN 6295688).

Federico teaches all the essential elements of the claimed invention however fails to teach a caddy for the toilet cleaner. Sayles teaches a toilet cleaner comprising a caddy. The caddy of Sayles is contoured to support the cleaning tool in the open air. Since it is stored in the open air, there is no need to drainage holes. The effect is the same if stored in open air, as there would be if stored in a closed container with drainage holes. There is holder for positioning a cleaning swab to facilitate hands-free attachment of a swab to the tool. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a caddy for the toilet cleaners of Federico so that when the toilet cleaners are not in use they could be stored away.

***Allowable Subject Matter***

Claim 27-30 and 49 are allowed.

Claims 22-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

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Claim 22 teaches the locations of the head sections when the tool is in the loading, use and unloading positions. The loading position allows both the head sections side and front edges to be aligned. In use position, the first and second heads are partially vertically displaced from each other. In unloading position, the first and second head sections are partially disengaged and slidably displaced one relative to the other.

Claim 23 states that in use position, the first and second head sections are pivotally moved away from one another by rotations around an axis parallel to their corresponding edges.

Claim 25 teaches that in the unloading position, the first and second head sections are slidably moved one relative to another, wherein two of the edges of each the first and second head sections are in partial contact and one of their edges are not aligned and not in contact.

Claim 27 teaches the locations of the head sections when in loading, use and unloading positions. In loading position, the head sections are aligned. When using, the head sections are partially separated from one another in a first direction and when unloading, the head sections move apart in a second direction different from the first direction to expand the cleaning head.

Claim 49 teaches a cam and cam follower wherein the cam follower is attached at a first end directly to the cam and the second end it attached to the cam by a spring. The first end is positioned closest to the handle and the second end is positioned opposite the handle and closest to the front edge of the cleaning head. When the cam is rearwardly displaced, the cleaning head be alternate from loading to use position and when the cam is forwardly displaced the cleaning head is in unloading position.

None of the prior art references teaches the above limitations nor would it have been obvious to combine references to achieve the claimed invention.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-17 and 18 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on 571-272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MARK SPISICH  
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5/20/05